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7 Attorneys for Defendants  
PHILLIPS SPALLAS & ANGSTADT, LLC  
8 and BRENDA H. ENTZMINGER, ESQ.

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

11 BLUE MARTINI LAS VEGAS, LLC, a Nevada  
12 Limited Liability Corporation, d/b/a BLUE  
MARTINI LOUNGE,

Plaintiff,

v.

17 BRENDA H. ENTZMINGER, ESQ.; PHILLIPS  
18 SPALLAS & ANGSTADT, LLC; and DOES 1  
through 100, inclusive,

Defendants.

CASE NO.

[Clark County Case No. A-15-712785-C  
Dept. XIX]

**DEFENDANTS BRENDA H.  
ENTZMINGER, ESQ. AND PHILLIPS  
SPALLAS & ANGSTADT, LLC'S  
PETITION FOR REMOVAL OF CIVIL  
ACTION**

**[JURY DEMAND]**

20 COME NOW, Petitioners BRENDA H. ENTZMINGER and PHILLIPS SPALLAS &  
21 ANGSTADT, LLC, by and through their attorneys, Olson, Cannon, Gormley, Angulo & Stoberski,  
22 and hereby submit and respectfully show:

## I.

Petitioners are Defendants in the Above-entitled action.

## II.

26 The above-entitled action was commenced by Plaintiff BLUE MARTINI LAS VEGAS,  
27 LLC ("Plaintiff") on January 22, 2015 in the Eighth Judicial District Court in and for Clark  
28 County, District of Nevada, and is now pending in that Court. Plaintiff alleges within its

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1 Complaint that Defendants committed professional malpractice. True and correct copies of the  
2 Summons and Complaint are attached hereto as Exhibits A and B, respectively.

3 Additionally, Plaintiff previously had alleged through its Assignee and non-party Tomora  
4 Reichardt that Defendants committed professional malpractice in *Tomora Reichardt v. Blue*  
5 *Martini Las Vegas, LLC*, Case No. A-10-608169-C representing Defendant Blue Martini therein,  
6 which has since been dismissed with Prejudice.

### 7 III.

8 The Petition is filed timely pursuant to 28. U.S.C. §1446(b).

### 9 IV.

10 This action is a civil action over which this Court has jurisdiction pursuant to 28 U.S.C.  
11 §1332(a), and is one which may be removed to this Court by Petitioners, pursuant to 28 U.S.C.  
12 §1441(a).

### 13 V.

14 Petitioners are informed, believe and thereon allege that Plaintiff Blue Martini is and was at  
15 all times a Nevada Limited Liability Corporation.

### 16 VI.

17 Petitioner PHILLIPS SPALLAS & ANGSTADT, LLC, was at the time this action  
18 commenced and all relevant times herein, a Nevada Limited Liability Company, authorized to and  
19 doing business in Nevada. PHILLIPS SPALLAS & ANGSTADT, LLC's is a citizen of California and  
20 its individual members/owners, Robert K. Phillips, Gregory L. Spallas, and Todd A. Angstadt, are  
21 all citizens of the State of California.

22 Petitioner BRENDA H. ENTZMINGER was and is at the time of this action commenced a  
23 citizen of the State of California.

### 24 VII.

25 The above-entitled action is for damages in which exceed the sum required by 28 U.S.C.  
26 §1332(a), and has been established at the amount of \$2,000,000.00. Plaintiff alleges Defendants  
27 allegedly committed professional malpractice in the instant case. Additionally, Plaintiff made the  
28 same allegations through its Assignee and non-party Tomora Reichardt in the Nevada District

1 Court case, *Tomora Reichardt v. Blue Martini Las Vegas, LLC*, Case No. A-10-608169-C  
 2 representing Defendant Blue Martini therein, which has since been dismissed with prejudice.

3 VIII.

4 A copy of Defendants' Petition for Removal of Civil Action, seeking removal of the above-  
 5 entitled action to the United States District Court, District of Nevada, together with a copy of the  
 6 Summons and Complaint have been deposited with the Deputy Clerk in the County Clerk's office  
 7 for the Eighth Judicial District Court in and for Clark County, Nevada.

8 IX.

9 Copies of all pleadings and papers served upon Petitioners in the above-entitled action are  
 10 filed herewith.

11 X.

12 This Petition is filed with the Court within thirty (30) days after Petitioners were served  
 13 with a copy of Plaintiff's Complaint. Plaintiff alleges Defendants committed professional  
 14 malpractice in the instant matter. Additionally, Plaintiff made the same allegations through its  
 15 Assignee and non-party Tomora Reichardt in the Nevada District Court case, *Tomora Reichardt v.*  
 16 *Blue Martini Las Vegas, LLC*, Case No. A-10-608169-C representing Defendant Blue Martini  
 17 therein, which has since been dismissed with prejudice. The above-entitled action is for damages  
 18 in which exceed the sum required by 28 U.S.C. §1332(a). See Exhibit A.

19 Given these damages allegations, Plaintiff's claim satisfies the jurisdictional requirement.  
 20 See 28 U.S.C. §1332(a); *See also Luckett v. Delta Airlines, Inc.*, 171 F. 3d 295, 298 (5<sup>th</sup> Cir. 1999)  
 21 (holding that it was facially apparent from Plaintiff's Complaint that the claim exceeded \$75,000.0  
 22 where plaintiff alleged property damage, travel expenses, an emergency ambulance trip, a six-day  
 23 hospital stay, pain and suffering, humiliation and a temporary inability to do housework); *see also*  
 24 *White v. FCI USA, Inc.*, 319 F. 3d 672, 674 (th Cir. 2003) (holding that it was facially apparent that  
 25 plaintiff's wrongful termination exceeded \$75,000.00 based on the lengthy list of compensatory  
 26 and punitive damages combined with a claim for attorney fees in her Complaint); *see also Crum v.*  
 27 *Circus Circus Enters*, 231 F. 3d 1129, 1131 (9<sup>th</sup> Cir. 2000) (reversing dismissal for lack of  
 28

1 jurisdiction, relying in part on estimated future medical expenses to determine that amount in  
2 controversy exceeded the jurisdictional amount).

3 **PRAYER**

4 Wherefore, Petitioners pray that the above-entitled action be removed from the Eighth  
5 Judicial District Court in and for Clark County, Nevada, to this Court.

6 DATED this 17 day of February, 2015.

7 OLSON, CANNON, GORMLEY  
8 ANGULO & STOBERSKI

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11 JAMES R. OLSON, ESQ.  
12 Nevada Bar No. 000116  
13 FELICIA GALATI, ESQ.  
14 Nevada Bar No. 007341  
15 9950 West Cheyenne Avenue  
16 Las Vegas, NV 89129  
17 Attorneys for Defendants PHILLIPS  
18 SPALLAS & ANGSTADT, LLC and  
19 BRENDA H. ENTZMINGER  
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**DECLARATION OF JAMES R. OLSON**

I, JAMES R. OLSON, declare as follows:

1. I am an attorney, duly licensed and authorized to practice law within the courts of the State of Nevada.

2. I am a partner of the law firm of Olson, Cannon, Gormley, Angulo & Stoberski representing Petitioners BRENDA ENTZMINGER and PHILLIPS SPALLAS & ANGSTADT, LLC in the case of *Blue Martini Las Vegas, LLC v. Brenda H. Entzminger, Esq. and Phillips Spallas & Angstdat, LLC*, Clark County District Court Case No. A-15-712785-C; filed in Department No. XIX of the Eighth Judicial District Court, in and for Clark County, Nevada. I have prepared and read the foregoing Petition for Removal of Civil Action and know the matters set forth to be true and correct to the best of my knowledge and belief.

3. On February 17, 2015, I caused to be filed with the County Clerk of the Eighth Judicial District Court, in and for Clark County, Nevada, a Notice of Filing Petition for Removal, seeking removal of the above-mentioned action to the United States District Court, District of Nevada, together with a copy of this Petition for Removal of Civil Action, including Plaintiff's Summons and Complaint, attached hereto as Exhibits A and B. This Petition is filed with the Court within thirty (30) days after service of the Complaint and Summons.

4. The above-entitled action is for damages in which exceed the sum required by 28 U.S.C. §1332(a) in the amount of \$2,000,000.00.

5. I caused to be served copies of the Notice of Removal to Federal Court and the Petition for Removal of Civil Action upon Plaintiff by depositing them in the United States Mail, on February 17, 2015, in an envelope properly addressed, with sufficient postage affixed, to:

Michael R. Hall, Esq.  
David T. Gluth, Esq.  
Hall Jaffe & Clayton, LLP  
7425 Peak Drive  
Las Vegas, NV 89128

Robert D. Vannah, Esq.  
Vannah & Vannah  
400 South Seventh Street  
Fourth Floor  
Las Vegas, NV 89101

1 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing  
2 is true and correct.

3 DATED this 17 day of February, 2015.

4  
5 OLSON, CANNON, GORMLEY  
6 ANGULO & STOBERSKI

7  
8 JAMES R. OLSON, ESQ.  
9 Nevada Bar No. 000116  
10 FELICIA GALATI, ESQ.  
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13 Las Vegas, NV 89129  
14 Attorneys for Defendants  
15 PHILLIPS SPALLAS & ANGSTADT, LLC  
16 and BRENDA H. ENTZMINGER  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 17<sup>th</sup> day of February, 2015, I sent via e-mail a true and correct copy of the above and foregoing **DEFENDANTS BRENDA H. ENTZMINGER, ESQ. AND PHILLIPS SPALLAS & ANGSTADT, LLC'S PETITION FOR REMOVAL OF CIVIL ACTION** through the CM/ECF system of the United States District Court for the District of Nevada (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

Michael R. Hall, Esq.  
David T. Gluth, Esq.  
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and

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